

Issuance Date: May 17, 2002  
Effective Date: June 1, 2002  
Expiration Date: January 1, 2006

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
WASTE DISCHARGE PERMIT No. WA0040975

State of Washington  
DEPARTMENT OF ECOLOGY  
Olympia, Washington 98504-7600

In compliance with the provisions of  
The State of Washington Water Pollution Control Law  
Chapter 90.48 Revised Code of Washington  
and  
The Federal Water Pollution Control Act  
(The Clean Water Act)  
Title 33 United States Code, Section 1251 et seq.

**Willapa Bay/Grays Harbor Oyster Growers Association**

**P.O. Box 309**

**Ocean Park, WA 98640**

**and**

**Farm and Forest Helicopter Service Inc.**

**P.O. Box 404**

**Napavine, WA 98565**

<u>Facility Location</u> : All of Willapa Bay and Grays Harbor	<u>Receiving Water</u> : Willapa Bay and Grays Harbor
<u>Water Body I.D. No.</u> : Willapa Bay 11-24-01	<u>Discharge Location</u> : Area Bounded by :
Grays Harbor 10-22-03	Latitude: 46° 24' N to 47° 00' N
<u>Industry Type</u> : Oyster Farming	Longitude: 123° 51' W to 124° 02' W

is authorized to discharge in accordance with the special and general conditions which follow.

original signed by:  
Kelly Susewind, P.E.  
Southwest Region Manager  
Water Quality Program  
Washington State Department of Ecology

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### SUMMARY OF PERMIT REPORT SUBMITTALS

Refer to the Special and General Conditions of this permit for additional submittal requirements.

Permit Section	Submittal	Frequency	First Submittal Date
S3.A, S4.D.	Annual Report	Annually	December 1, 2002
S3.E.	Noncompliance Notification	As necessary	
S4.A.	Annual Operations Plan	Annually	June 1, 2002
S5.A.	Engineering Report Proposal	1/permit cycle	January 1, 2003
S5.A.	Engineering Report Submittal	1/permit cycle	January 1, 2005
S5.B.	Biological Report Proposal	1/permit cycle	January 1, 2003
S5.B.	Biological Report Submittal	1/permit cycle	January 1, 2005
S5.C.	Integrated Pest Management Plan	1/permit cycle	March 19, 2003
S5.D.	Water Column Fate and Transport Study Proposal	1/permit cycle	January 1, 2003
S5.D.	Water Column Fate and Transport Study Proposal	1/permit cycle	January 1, 2005
S5.E.	Sediment Impact Zone Study Proposal	1/permit cycle	January 1, 2003
S5.E.	Sediment Impact Zone Study Submittal	1/permit cycle	January 1, 2005
S7.	Spill Plan	1/permit cycle	June 30, 2002
G1.	Notice of Change in Authorization	As necessary	
G4.	Permit Application for Substantive Changes to the Discharge	As necessary	
G5.	Engineering Report for Construction or Modification Activities	As necessary	
G7.	Application for Permit Renewal	1/permit cycle	June 1, 2005
G8.	Notice of Permit Transfer	As necessary	
G21.	Notice of Planned Changes	As necessary	
G22.	Reporting Anticipated Non-compliance	As necessary	

## SPECIAL CONDITIONS

### S1. DISCHARGE LIMITATIONS

#### A. Process Wastewater Discharges

All discharges and activities authorized by this permit shall be consistent with the terms and conditions of this permit. The discharge of carbaryl authorized by this permit is limited to the waters of the State of Washington. Nothing in this permit shall be construed as authorizing carbaryl discharge to the Shoalwater Indian Reservation.

Beginning on the effective date of this permit and lasting through the expiration date, the Permittees are authorized to apply carbaryl at the times and locations approved in the Annual Operations Plan specified in S4 and in conformance with practices set forth in S7.

This permit authorizes an annual short-term modification in accordance with WAC 173-201A-110 for activities conducted under an approved Annual Operations Plan as specified in S4. The short-term modification suspends the acute effluent limit for 24 hours from the time of application and the chronic effluent limit for 30 days from the time of application. As described in S4, application of carbaryl must take place between July 1 and September 1 each year. The valid duration of the annual short-term modification is from the time of first application until 30 days following the last application.

Current practices as set forth in S4 and S7 are currently accepted as AKART for the control of burrowing shrimp in Willapa Bay and Grays Harbor.

	EFFLUENT LIMITATIONS	
Parameter	Acute Limit, 24 Hours after Application	Chronic Limit, 30 Days after Application
Carbaryl, µg/l	3.0	0.06

### S2. MONITORING REQUIREMENTS

Monitoring required by this section is intended to determine residual concentrations of carbaryl in the area of application. Specific sampling locations and corresponding background locations identified below are each associated with a general area of treatment. Treatment locations vary each year and will be identified in the Annual Operations Plan required in S4. The Annual Operations Plan will specify the areas and timing of treatment, and identify appropriate corresponding sampling locations from those listed in S2.B. below.

The monitoring requirements of this section will be superseded by those established in the approved Water Column Fate and Transport Study proposal as required in S5.D.

A. Monitoring Schedule

Category	Parameter	Units	Sample Point	Minimum Sampling Frequency	Sample Type
Spray Site Acute Compliance	Carbaryl	µg/l	Application Areas	First Falling Tide, at least 24 Hours after Application	Grab
Spray Site	1-Napthol	µg/l	Application Area	First Falling Tide, at least 24 Hours after Application	Grab
Chronic Compliance	Carbaryl	µg/l	See S2.B. below	First Falling Tide, 30 Days after Application	Grab
30 Day Concentration	1-Napthol	µg/l	See S2.B. below	First Falling Tide, 30 Days after Application	Grab

Sampling is required for aerial spraying only. Non-aerial spraying need not be sampled.

If a large area cannot be sprayed in one day the 30 day waiting period for chronic sampling will begin on the last day sprayed. Proximate spray sites may be represented by a single sampling location. Specific sampling locations will be identified in the Annual Operations Plan (S4). It is the duty of the Permittees to assure that all spraying be done in a manner that will not compromise the validity of sampling events.

B. Sampling Point Locations

Background Sampling Points	Description	Latitude	Longitude	Background Sampling Point Match
001, Pacific County Drainage Ditch	Larkin Road	46° 44' 26"	124° 01' 19"	N/A
002, Bone River	Highway 101 Bridge	N/A	N/A	N/A
003 Palix River	Highway 101 Bridge	N/A	N/A	N/A
004 Nemah River	Highway 101 Bridge	N/A	N/A	N/A
005 Naselle River	Highway 101 Bridge	N/A	N/A	N/A
006 Bear River	Highway 101 Bridge	N/A	N/A	N/A
<b>Compliance Sampling Points</b>				
007 Tokeland Point	Deepest point of Channel	Parallel 46° 42' 30"	N/A	001

Background Sampling Points	Description	Latitude	Longitude	Background Sampling Point Match
008 Russell Channel	West End, Deepest point of Channel	Parallel 46° 41' 20"	N/A	None
009 Pine Island Channel	North End, Deepest point of Channel	Parallel 46° 41' 20"	N/A	002, 003
010 Bay Center Channel	West End, Deepest point of	N/A	Meridian 123° 58' 45"	002,003
011 Center of Bay	Channel Deepest point of Channel	Parallel 46° 35' 00"	N/A	004, 005, 006
012 Unnamed Channel, south of County Dock	North End, Deepest point of Channel	N/A	Meridian 124° 00' 54"	None
013 Unnamed Channel, south of County Dock	South End, Deepest point of Channel	N/A	Meridian 124° 00' 54"	None
014 Unnamed Channel, South of Stackpole Harbor	North End, Deepest point of Channel	N/A	Meridian 124° 00' 36"	None
015 Unnamed Channel, South of Stackpole Harbor	South End, Deepest point of Channel	N/A	Meridian 124° 00' 36"	None
016, 017, 018, Grays Harbor	Recommended by the Permittees, approved by Ecology			

All place names are taken from USGS Quad maps.

Specific sampling dates, locations (007-018), and corresponding background locations (001-006) are dependent on the spray schedule and will be identified in the Annual Operations Plan (S4).

C. Laboratory Accreditation

All monitoring data required by the Department shall be prepared by a laboratory registered or accredited under the provisions of, *Accreditation of Environmental Laboratories*, Chapter 173-50 WAC. Flow, temperature, settleable solids, conductivity, pH, and internal process control parameters are exempt from this requirement. Conductivity and pH shall be accredited if the laboratory must otherwise be registered or accredited. The Department exempts crops, soils, and hazardous waste data from this requirement pending accreditation of laboratories for analysis of these media.

**S3. REPORTING AND RECORDKEEPING REQUIREMENTS**

The Permittees shall monitor and report in accordance with the following conditions. The falsification of information submitted to the Department shall constitute a violation of the terms and conditions of this permit.

A. Discharge Monitoring Report

The first monitoring period begins on the effective date of the permit. Monitoring results shall be submitted in the Annual Report. Monitoring data obtained during each monitoring period shall be summarized, reported, and submitted on a Discharge Monitoring Report form provided, or otherwise approved, by the Department. A separate form for each application site will be submitted by the Permittees in the Annual Report for the Willapa Bay/Grays Harbor Oyster Growers Association.

B. Annual Report

The Annual Report requirements described throughout this permit include: S3.A, S4.D, S5.E, S7.I. The Annual Report shall be received no later than the 1<sup>st</sup> of December following the application season. The report(s) shall be sent to the Department of Ecology, Southwest Regional Office, P.O. Box 47775, Olympia, Washington 98504-7775.

All laboratory reports providing data for organic and metal parameters shall include the following information: sampling date, sample location, date of analysis, parameter name, CAS number, analytical method/ number, method detection limit (MDL), laboratory practical quantitation limit (PQL), reporting units, and concentration detected.

An annual Discharge Monitoring Report must be submitted whether or not the pesticide was applied. If there was no application during a given year, submit the report as required with the words "no discharge" entered in place of the monitoring results.

C. Records Retention

The Permittees shall retain records of all monitoring information for a minimum of three (3) years. Such information shall include all calibration and maintenance records and all original recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the Permittees or when requested by the Director.

D. Recording of Results

For each measurement or sample taken, the Permittees shall record the following information: (1) the date, exact place, method, and time of sampling or measurement; (2) the individual who performed the sampling or measurement; (3) the dates the analyses were performed; (4) the individual who performed the analyses; (5) the analytical techniques or methods used; and (6) the results of all analyses.

E. Additional Monitoring by the Permittees

If the Permittees monitor any pollutant more frequently than required by this permit using test procedures specified by Condition S2. of this permit, then the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Permittees' Annual Report.



F. Noncompliance Notification

In the event the Permittees are unable to comply with any of the terms and conditions of this permit due to any cause, the Permittees shall:

1. Immediately take action to stop, contain, and clean up unauthorized discharges or otherwise stop the noncompliance, correct the problem and, if applicable, repeat sampling and analysis of any noncompliance immediately and submit the results to the Department within thirty (30) days after becoming aware of the violation.
2. Immediately notify the Department of the failure to comply.
3. Submit a detailed written report to the Department within thirty (30) days, unless requested earlier by the Department. The report shall contain a description of the noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

Compliance with these requirements does not relieve the Permittees from responsibility to maintain continuous compliance with the terms and conditions of this permit or the resulting liability for failure to comply.

**S4. ANNUAL OPERATIONS PLAN**

The Permittees shall submit an Annual Operations Plan for applying carbaryl to selected shrimp infested oyster beds. The annual short-term modification authorized by this permit is conditioned on approval of the Annual Operations Plan. No carbaryl placement will take place until the Annual Operations Plan is approved by the Department.

Unless otherwise authorized by the Department, the area to be sprayed under this permit shall be limited to 600 acres in Willapa Bay and 200 acres in Grays Harbor. Requests for additional acreage shall be made in the Annual Operations Plan submitted for approval by the Department.

No oyster bed may be treated with carbaryl if it contains oysters which are within one year of harvest.

No application shall take place outside the areas identified in the Annual Operations Plan and approved. Application of carbaryl shall take place between July 1 and September 1.

A. Annual Operations Plan Requirements:

On or before June 1<sup>st</sup> of the application year, the Permittees shall complete and submit to the Department an Annual Operations Plan to treat oyster beds. At a minimum, the Annual Operations Plan shall consist of the following:

1. The treatment schedule showing the days, times, number of acres, oyster bed designations, and burrow counts for each oyster bed; no oyster bed may be treated with carbaryl unless the mean burrow count exceeds ten burrows per square meter (ten burrows/m<sup>2</sup>).

If the mean burrow count is less than ten burrows/m<sup>2</sup>, a bed may be treated with carbaryl provided a report is filed with the Department at least one week before the application date with the following information:

- a. A substrate condition evaluation,
  - b. Species of burrowing shrimp present, and
  - c. The anticipated use of the bed following treatment.
2. The name and telephone number of the person(s) responsible for the management of the spray program.
  3. Locations of all posting signs at public and privately-owned access points (as identified in C. 2 below).
  4. Written permission from the landowners of the proposed carbaryl application sites for access by Department employees as described in General Condition G2.
  5. A list of proposed sampling sites and a sampling schedule based on the anticipated spray locations. The sampling plan must meet the requirements described in Condition S.2.
  6. Identification of measuring device to be used for monitoring wind velocity during applications.

B. Experimental Use

Experimental Use applications may be included in the Annual Operations Plan. Carbaryl and other pesticides may be applied in the context of a research and development effort under the jurisdiction of the Washington State Department of Agriculture through issuance of a Washington State Experimental Use Permit (WSEUP).

C. Notification

1. Public notification, including property owners within 200 feet of the treatment site, will be required at least 24 hours, but not more than ten days, prior to the commencement of initial carbaryl application to oyster beds. Notification shall continue at a frequency of no less than once per month until carbaryl application is completed for the season. At a minimum, notification shall include announcements in *Aberdeen World*, *Harbor Herald*, and *Chinook Observer* area newspapers, and by signs at all reasonable points of public access to the proposed treatment areas. Electronic media public service announcements, handbills, mailings to adjacent landowners, or any combination of the above may be used in addition to the newspaper and sign notification. Adjacent property owners within 200 feet of the treatment site shall be notified directly either in person, by telephone, or by mail. All notifications shall include the name of the pesticide to be used, where it is to be applied, any public health and livestock restrictions, and the name and phone number of the Willapa/Grays Harbor Oyster Growers Association designated contact person.

2. Notification by signs includes, but is not limited to, posting beaches and docks. All public access areas within one-quarter ( $\frac{1}{4}$ ) mile and all public boat launches within a one-and-a-half ( $1\frac{1}{2}$ ) mile radius of any bed scheduled for treatment shall be posted. Public access areas shall be posted at 500 foot intervals at those access areas more than 500 feet wide. Signs shall be a minimum of  $8\frac{1}{2}$  x 11 inches in size, and be made of a durable weather-resistant, white material. Lettering shall be in bold black type with the word "WARNING" or "CAUTION" at least one-inch high, and all other words at least one-fourth ( $\frac{1}{4}$ ) of an inch high. Signs shall be posted so they are secure from the normal effects of weather and water currents, but cause no damage to private or public property.
3. At least 24 hours prior to the first application of carbaryl in Willapa Bay/Grays Harbor, the applicant shall notify the Department. The contact for this notification is the Non-Point Water Quality Specialist for the Western Olympic Basin (360-407-0245). Notification shall include the following information, at a minimum:
  - a. A treatment schedule showing the days, times, number of acres, oyster bed designations, and burrow counts for each oyster bed;
  - b. The name and telephone number of the person responsible for the management of the program; and
  - c. Locations of all posting signs at public access points.
4. A Willapa/Grays Harbor Oyster Growers Association representative shall notify the Department Non-Point Water Quality Specialist for the Western Olympic Basin the exact time and location of the helicopter landing site for the purpose of monitoring or chemical handling and mixing, or the location of the bed to be sprayed via backpack or mechanical means. If treatment is on a weekend or Monday, notification shall be 5:00 p.m. the Friday prior to the application date. If the Department Non-Point Water Quality Specialist does not arrive at the site at the time specified, then chemical handling and mixing are authorized to proceed without the Department Non-Point Water Quality Specialist on-site verification
5. At least 24 hours prior to the first application of carbaryl in Willapa Bay/Grays Harbor, the applicant shall notify the U.S. Fish and Wildlife Service, Environmental Contaminant Division at (360) 753-9440, the Willapa National Wildlife Refuge at (360) 484-3482 or the Grays Harbor National Wildlife Refuge at (360) 753-9467, and the research scientist in charge at the Washington State Department of Fish & Wildlife at (360) 665-4166. Notification shall include the treatment schedule showing the days, times, number of acres, oyster bed designations, and burrow counts for each oyster bed; and the name and telephone number of the person responsible for the management of the program.
6. At least 24 hours prior to the application of carbaryl in Willapa Bay/Grays Harbor, the applicant or the applicant's representative shall notify interested parties of the scheduled treatment. This can be done by telephone, e-mail, or fax. The applicant shall obtain the list of names (interested parties) to be notified from

the Department Non-Point Water Quality Specialist for the Western Olympic Basin.

D. Reporting Requirements

On or before December 1 of the treatment year of carbaryl application, a summary of the results of the treatment will be submitted in the Annual Report. All items shown in Section S4.A, C1, 2, 3, and 6, shall be included in the report, together with any pertinent observations. The report shall include a copy of the newspaper notices, locations of all signs, hand bills, mailings to landowners, or e-mail notice to interested parties, Global Positioning System (GPS) coordinates or similar level accuracy mapping for all parcels sprayed either aurally or by hand. A copy of this report shall also be provided to the Washington State Department of Fish & Wildlife at the Willapa Bay Office.

**S5. COMPLIANCE SCHEDULE**

This permit requires that AKART for the control of burrowing shrimp in Willapa Bay and Grays Harbor be re-evaluated and updated through submittal of the following reports:

A. Engineering Report

On or before January 1, 2003, the Permittees shall submit a proposal to the Department to research mechanical methods to control burrowing shrimp infestations as a substitute for pesticide application. Uncontrolled trials of such methods will not be acceptable for inclusion in this research. On or before January 1, 2005, the Permittees shall submit the results of this research to the Department for approval. This report shall comply with WAC 173-240.

B. Biological Report

On or before January 1, 2003, the Permittees shall submit a proposal to the Department to research biological methods to control burrowing shrimp populations as a substitute for pesticide application. On or before January 1, 2005, the Permittees shall submit the results of this research to the Department for approval. The qualifications of the person preparing the report shall be submitted with the proposal for the Department's approval.

C. Integrated Pest Management (IPM) Plan

On or before March 19, 2003, the Permittees shall submit to the Department an IPM plan to control burrowing shrimp populations.

D. Water Column Fate and Transport Study

On or before January 1, 2003, the Permittees shall submit a proposal for a Water Column Fate and Transport Study.

On or before January 1, 2005, the Permittees shall submit a report to include the following.

1. Through field sampling, as approved in the proposal, determine and describe carbaryl and 1-naphthol dispersion and degradation patterns within the surface waters of Willapa Bay, following its annual use on oyster beds to control

burrowing shrimp. The resolution of this analysis should be less than or equal to 0.01 ug/L for carbaryl and less than or equal to 0.1 ug/L for 1-naphthol.

2. The analysis should address situations where most of the carbaryl is applied to a restricted area over a several day period, e.g., the year 2000 treatments in the Stony Point/Bay Center area. The geographic area of interest includes all of Willapa Bay east of a line drawn between Leadbetter Point and the west reservation boundary of the Shoalwater Bay Tribe, to The Narrows at South Bend.
3. The qualifications of the persons preparing this report shall be submitted with this proposal for approval.

E. Sediment Impact Zone Study

The Permittees shall apply for a sediment impact zone authorization as per WAC 173-204-415.

On or before January 1, 2003, the Permittees shall submit for approval a proposal to conduct a study designed to:

1. Define the location and spatial extent of the sediment impact zone (SIZ) needed for two representative sites in Willapa Bay and one representative site in Grays Harbor [e.g., Section 415(4)(a)(ii)(C)].
2. Characterize at each SIZ the magnitude and persistence of appropriate measures of adverse biological effects (e.g., for maintenance and closure under WAC 173-204-415 and WAC 173-204-420).

The sediment study shall contain the following elements (or equivalent as approved by the Department):

3. The proposed study identifies a total of three carbaryl application sites plus unexposed reference stations and a reasonable number of surface sediment samples to be collected on a periodic basis at a frequency to be determined from each application and reference site. All parties must agree that these samples are adequate for determining the magnitude, spatial extent and persistence of adverse biological effects. For example, three samples could be collected from each site and tested on a temporal basis to assess: a) chronic effects such as abnormal development or reduced growth rate, tissue bioaccumulation in benthic organisms, and/or alterations in the benthic community.
4. The Sampling and Analysis plan for this study shall be submitted to Ecology for approval and follow the requirements of the "Sampling and Analysis Plan Appendix (SAPA), Guidance on the Development of Sampling Sediment and Analysis Plans Meeting the Requirements of the Sediment Management Standards - Chapter 173-204 WAC." The annual results of this study plan shall be included in the Annual Report due December 1.

As a part of the application for permit renewal, the Permittees shall submit a final report summarizing the results of the study by January 1, 2005.

**S6. SPILL PLAN**

Prior to June 30, 2002, the Permittees shall submit to the Department the application spill control plan for the prevention, containment, and control of spills or unplanned discharges of: 1) oil and petroleum products, 2) materials, which when spilled, or otherwise released into the environment, are designated Dangerous (DW) or Extremely Hazardous Waste (EHW) by the procedures set forth in WAC 173-303-070, or 3) other materials which may become pollutants or cause pollution upon reaching state's waters such as carbaryl. The Permittees shall review and update the Spill Plan, as needed, at least annually. Changes to the plan shall be sent to the Department. The plan and any supplements shall be followed throughout the term of the permit.

If an updated spill control plan is needed, it shall include the following:

- A description of the reporting system which will be used to alert responsible managers and legal authorities in the event of a spill.
- A description of preventive measures and facilities (including an overall facility plot showing drainage patterns) which prevent, contain, or treat spills of these materials.
- A list of all oil and chemicals used, processed, or stored at the facility which may be spilled into state waters.

For the purpose of meeting this requirement, plans and manuals, or portions thereof, required by 33 CFR 154, 40 CFR 109, 40 CFR 110, 40 CFR Part 112, the Federal Oil Pollution Act of 1990, Chapter 173-181, and contingency plans required by Chapter 173-303 WAC may be submitted.

**S7. BEST MANAGEMENT PRACTICES**

The Permittees shall follow the best management practices defined below on all days of application.

- A. The applicator shall comply with all pesticide label instructions. When application conditions in this permit issued by the Department differ from those on pesticide labels, the more stringent of the two requirements must be complied with. However, no condition in this permit or any amended Order shall reduce the requirements on the pesticide label. All applicable federal, state and local laws and ordinances shall be followed.
- B. The corners of each oyster bed scheduled for treatment shall be marked so the bed is visible from an altitude of at least 500 feet.
- C. A Willapa Bay/Grays Harbor Oyster Growers Association representative shall be present at the treatment site at the time of treatment.
- D. Only one application of carbaryl per treated oyster bed is allowed.
- E. Carbaryl application rate shall not exceed eight pounds active ingredient per acre.
- F. Carbaryl shall be applied to only those beds which are uncovered by the outgoing tide, and no later than 30 minutes after low tide.
- G. No carbaryl shall be applied within the following distances of sloughs, channels, or oysters which are within one year of harvest:

1. Application by helicopter - 200 feet
  2. Application by hand sprayer - 50 feet
- H. No aerial application of carbaryl shall occur if the wind velocity at the treatment site exceeds ten miles per hour.
- I. During all pesticide applications, the oyster bed owner or representative, the applicator, or persons applying pesticides shall possess, on-site, a copy of the permit.
1. The applicator shall keep complete application records on the approved spray report form provided in Appendix "F" of the Fact Sheet. This form will also fulfill the Department of Agriculture's reporting requirements.
  2. These application records shall be completed and available to the Department the same day the pesticide was applied and be mailed or hand delivered to the Department immediately upon request.
  3. A copy of each application record shall be provided to the Department Non-Point Water Quality Specialist for the Western Olympic Basin with the Annual Report.

## **GENERAL CONDITIONS**

### **G1. SIGNATORY REQUIREMENTS**

All applications, reports, or information submitted to the Department shall be signed and certified.

- A. All permit applications shall be signed by either a responsible corporate officer of at least the level of vice president of a corporation, president of an association, a general partner of a partnership, or the proprietor of a sole proprietorship.
- B. All reports required by this permit and other information requested by the Department shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
  - 1. The authorization is made in writing by a person described above and submitted to the Department.
  - 2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)
- C. Changes to authorization. If an authorization under paragraph B.2 above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph B.2 above must be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.
- D. Certification. Any person signing a document under this section shall make the following certification:

I certify under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

### **G2. RIGHT OF INSPECTION AND ENTRY**

The Permittees shall allow an authorized representative of the Department, upon the presentation of credentials and such other documents as may be required by law:

- A. To enter upon the premises where a discharge is located or where any records must be kept under the terms and conditions of this permit.



- B. To have access to and copy - at reasonable times and at reasonable cost - any records required to be kept under the terms and conditions of this permit.
- C. To inspect - at reasonable times - any facilities, equipment (including monitoring and control equipment), practices, methods, or operations regulated or required under this permit.
- D. To sample or monitor - at reasonable times - any substances or parameters at any location for purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act.

### **G3. PERMIT ACTIONS**

This permit may be modified, revoked and reissued, or terminated either at the request of any interested person (including the Permittees) or upon the Department's initiative. However, the permit may only be modified, revoked and reissued, or terminated for the reasons specified in 40 CFR 122.62, 122.64 or WAC 173-220-150 according to the procedures of 40 CFR 124.5.

- A. The following are causes for terminating this permit during its term, or for denying a permit renewal application:
  - 1. Violation of any permit term or condition.
  - 2. Obtaining a permit by misrepresentation or failure to disclose all relevant facts.
  - 3. A material change in quantity or type of waste disposal.
  - 4. A determination that the permitted activity endangers human health or the environment or contributes to water quality standards violations and can only be regulated to acceptable levels by permit modification or termination [40 CFR part 122.64(3)].
  - 5. A change in any condition that requires either a temporary or permanent reduction or elimination of any discharge or sludge use or disposal practice controlled by the permit [40 CFR part 122.64(4)].
  - 6. Nonpayment of fees assessed pursuant to RCW 90.48.465.
  - 7. Failure or refusal of the Permittees to allow entry as required in RCW 90.48.090.
- B. The following are causes for modification but not revocation and reissuance except when the Permittees request or agree:
  - 1. A material change in the condition of the waters of the state.
  - 2. New information not available at the time of permit issuance that would have justified the application of different permit conditions.
  - 3. Material and substantial alterations or additions to the permitted facility or activities which occurred after this permit issuance.
  - 4. Promulgation of new or amended standards or regulations having a direct bearing upon permit conditions, or requiring permit revision.

5. The Permittees have requested a modification based on other rationale meeting the criteria of 40 CFR part 122.62.
  6. The Department has determined that good cause exists for modification of a compliance schedule, and the modification will not violate statutory deadlines.
  7. Incorporation of an approved local pretreatment program into a municipality's permit.
- C. The following are causes for modification or alternatively revocation and reissuance:
1. Cause exists for termination for reasons listed in A1 through A7, of this section, and the Department determines that modification or revocation and reissuance is appropriate.
  2. The Department has received notification of a proposed transfer of the permit. A permit may also be modified to reflect a transfer after the effective date of an automatic transfer (General Condition G8) but will not be revoked and reissued after the effective date of the transfer except upon the request of the new permittee(s).

#### **G4. REPORTING A CAUSE FOR MODIFICATION**

The Permittees shall submit a new application, or a supplement to the previous application, along with required engineering plans and reports whenever a material change to the facility or in the quantity or type of discharge is anticipated which is not specifically authorized by this permit. This application shall be submitted at least sixty (60) days prior to any proposed changes. The filing of a request by the Permittees for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not relieve the Permittees of the duty to comply with the existing permit until it is modified or reissued.

#### **G5. PLAN REVIEW REQUIRED**

Prior to constructing or modifying any wastewater control facilities, an engineering report and detailed plans and specifications shall be submitted to the Department for approval in accordance with Chapter 173-240 WAC. Engineering reports, plans, and specifications shall be submitted at least one hundred eighty (180) days prior to the planned start of construction unless a shorter time is approved by the Department. Facilities shall be constructed and operated in accordance with the approved plans.

#### **G6. COMPLIANCE WITH OTHER LAWS AND STATUTES**

Nothing in this permit shall be construed as excusing the Permittees from compliance with any applicable federal, state, or local statutes, ordinances, or regulations.

#### **G7. DUTY TO REAPPLY**

The Permittees shall apply for permit renewal at least 180 days prior to the specified expiration date of this permit.

#### **G8. TRANSFER OF THIS PERMIT**

In the event of any change in control or ownership of facilities from which the authorized discharge emanate, the Permittees shall notify the succeeding owner or controller of the existence of this permit by letter, a copy of which shall be forwarded to the Department.

A. Transfers by Modification

Except as provided in paragraph B below, this permit may be transferred by the Permittees to a new owner or operator only if this permit has been modified or revoked and reissued under 40 CFR 122.62(b)(2), or a minor modification made under 40 CFR 122.63(d), to identify the new Permittees and incorporate such other requirements as may be necessary under the Clean Water Act.

B. Automatic Transfers

This permit may be automatically transferred to a new Permittee(s) if:

1. The Permittees notifies the Department at least 30 days in advance of the proposed transfer date.
2. The notice includes a written agreement between the existing and new Permittee's containing a specific date transfer of permit responsibility, coverage, and liability between them.
3. The Department does not notify the existing Permittees and the proposed new Permittee(s) of its intent to modify or revoke and reissue this permit. A modification under the subparagraph may also be minor modification under 40 CFR 122.63. If this notice is not received, the transfer is effective on the date specified in the written agreement.

**G9. REDUCED PRODUCTION FOR COMPLIANCE**

The Permittees, in order to maintain compliance with its permit, shall control production and/or all discharges upon reduction, loss, failure, or bypass of the treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

**G10. REMOVED SUBSTANCES**

Collected screenings, grit, solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall not be resuspended or reintroduced to the final effluent stream for discharge to state waters.

**G11. DUTY TO PROVIDE INFORMATION**

The Permittees shall submit to the Department, within a reasonable time, all information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The Permittees shall also submit to the Department upon request, copies of records required to be kept by this permit [40 CFR 122.41(h)].

**G12. OTHER REQUIREMENTS OF 40 CFR**

All other requirements of 40 CFR 122.41 and 122.42 are incorporated in this permit by reference.

### **G13. ADDITIONAL MONITORING**

The Department may establish specific monitoring requirements in addition to those contained in this permit by administrative order or permit modification.

### **G14. PAYMENT OF FEES**

The Permittees shall submit payment of fees associated with this permit as assessed by the Department.

### **G15. PENALTIES FOR VIOLATING PERMIT CONDITIONS**

Any person who is found guilty of willfully violating the terms and conditions of this permit shall be deemed guilty of a crime, and upon conviction thereof shall be punished by a fine of up to ten thousand dollars (\$10,000) and costs of prosecution, or by imprisonment in the discretion of the court. Each day upon which a willful violation occurs may be deemed a separate and additional violation.

Any person who violates the terms and conditions of a waste discharge permit shall incur, in addition to any other penalty as provided by law, a civil penalty in the amount of up to ten thousand dollars (\$10,000) for every such violation. Each and every such violation shall be a separate and distinct offense, and in case of a continuing violation, every day's continuance shall be deemed to be a separate and distinct violation.

### **G16. UPSET**

Definition – “Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the Permittees. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of the following paragraph are met.

A Permittees who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that: 1) an upset occurred and that the Permittees can identify the cause(s) of the upset; 2) the permitted facility was being properly operated at the time of the upset; 3) the Permittees submitted notice of the upset as required in condition S3.E; and 4) the Permittees complied with any remedial measures required under S5 of this permit.

In any enforcement proceeding the Permittees seeking to establish the occurrence of an upset has the burden of proof.

### **G17. PROPERTY RIGHTS**

This permit does not convey any property rights of any sort, or any exclusive privilege.

#### **G18. DUTY TO COMPLY**

The Permittees shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

#### **G19. TOXIC POLLUTANTS**

The Permittees shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if this permit has not yet been modified to incorporate the requirement.

#### **G20. PENALTIES FOR TAMPERING**

The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than two years per violation, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this Condition, punishment shall be a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than four (4) years, or by both.

#### **G21. REPORTING PLANNED CHANGES**

The Permittees shall, as soon as possible, give notice to the Department of planned physical alterations or additions to the permitted facility, production increases, or process modification which will result in: 1) the permitted facility being determined to be a new source pursuant to 40 CFR 122.29(b); 2) a significant change in the nature or an increase in quantity of pollutants discharged; or 3) a significant change in the Permittees' sludge use or disposal practices. Following such notice, this permit may be modified, or revoked and reissued pursuant to 40 CFR 122.62(a) to specify and limit any pollutants not previously limited. Until such modification is effective, any new or increased discharge in excess of permit limits or not specifically authorized by this permit constitutes a violation.

#### **G22. REPORTING ANTICIPATED NON-COMPLIANCE**

The Permittees shall give advance notice to the Department by submission of a new application or supplement thereto at least one hundred and eighty (180) days prior to commencement of such discharges, of any facility expansions, production increases, or other planned changes, such as process modifications, in the permitted facility or activity which may result in noncompliance with permit limits or conditions. Any maintenance of facilities, which might necessitate unavoidable interruption of operation and degradation of effluent quality, shall be scheduled during non-critical water quality periods and carried out in a manner approved by the Department.

#### **G23. REPORTING OTHER INFORMATION**

Where the Permittees becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

**G24. REPORTING REQUIREMENTS APPLICABLE TO EXISTING MANUFACTURING, COMMERCIAL, MINING, AND SILVICULTURAL DISCHARGERS**

The Permittees belonging to the categories of existing manufacturing, commercial, mining, or silviculture must notify the Department as soon as they know or have reason to believe:

- A. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in this permit, if that discharge will exceed the highest of the following “notification levels:”
  - 1. One hundred micrograms per liter (100 µg/l).
  - 2. Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony.
  - 3. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7).
  - 4. The level established by the Director in accordance with 40 CFR 122.44(f).
- B. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in this permit, if that discharge will exceed the highest of the following “notification levels:”
  - 1. Five hundred micrograms per liter (500µg/L).
  - 2. One milligram per liter (1 mg/L) for antimony.
  - 3. Ten (10 ) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7).
  - 4. The level established by the Director in accordance with 40 CFR 122.44(f).

**G25. COMPLIANCE SCHEDULES**

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than fourteen (14) days following each schedule date.